



The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

March 24, 1982

L. JOYCE HAMPERS
COMMISSIONER

("Oil Company") is a major producer and distributor of petroleum products. You inquire whether holders of Oil Company credit cards who purchase the company's products from independent dealers may give an exemption certificate to the Oil Company for all their exempt purchases in lieu of presenting such certificates to the independent dealers at the time of sale. (You state that the Oil Company contemplates using such an exemption procedure to accommodate common carriers, among others.)

The Massachusetts sales tax is an excise on sales at retail of tangible personal property in Massachusetts (G.L. c. 64H, s. 2). General Laws Chapter 64H, s. 8(f) provides that a purchaser of tangible personal property who will use it in a manner that exempts it from the sales tax may give an exempt use certificate to the vendor to relieve the vendor from liability for the tax.

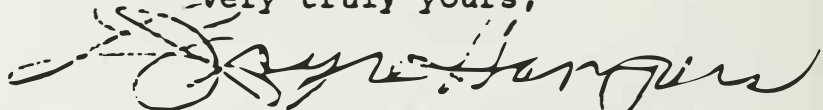
Sales of gasoline and special fuels that are taxed under Chapter 64A or Chapter 64E of the General Laws are not subject to the sales tax (G.L. c. 64H, s. 6(g)).

Based on the foregoing, it is ruled that independent dealers who sell the Oil Company's products (other than products taxed under Chapter 64A or Chapter 64E) are retailers who must collect and pay over the sales tax on such sales or accept exemption certificates where appropriate. The Oil Company may not accept exemption certificates from persons who purchase at retail from independent dealers.

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There is no exemption from the Massachusetts sales tax for sales to a common carrier of items to **be used** in interstate commerce, nor is the taxation of such sales prohibited by the Constitution or laws of the United States (see Letter Ruling 80-73, a copy of which is enclosed).

Very truly yours,

A handwritten signature in dark ink, appearing to read "Raymond J. Hargis", written in a cursive style.

Commissioner of Revenue

LJH:JXD:mf

LR 82-27